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Sentence

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 779 (LAP)

5 CHI PING PATRICK HO,

6 Defendant.

7 -----x  
8 New York, N.Y.  
9 March 25, 2019  
10 11:38 a.m.

12 Before:

13 LORETTA A. PRESKA,  
14 District Judge

15 APPEARANCES

16 GEOFFREY S. BERMAN  
17 United States Attorney for the  
18 Southern District of New York  
19 BY: DANIEL RICHENTHAL  
20 DOUGLAS ZOLKIND  
21 CATHERINE GHOSH  
22 Assistant United States Attorneys  
23 - and -  
24 U.S. DEPARTMENT OF JUSTICE (D.C.)  
25 BY: PAUL A. HAYDEN

KRIEGER KIM & LEWIN LLP  
Attorneys for Defendant  
BY: EDWARD Y. KIM  
JONATHAN BODANSKY  
JONATHAN BOLZ  
- and -  
DECHERT, LLP (N.Y.C.)  
BY: BENJAMIN ROSENBERG  
KATHERINE WYMAN

ALSO PRESENT: S.A. Ryan Carey, F.B.I.

J3pdhos

Sentence

1           THE COURT: United States against Chi Ping Patrick Ho.  
2           Is the government ready?

3           MR. RICHENTHAL: Yes. Good morning, your Honor.

4           Daniel Richenthal, Douglas Zolkind and Catherine Ghosh  
5         of the U.S. Attorney's Office and Paul Hayden of the Criminal  
6         Division Fraud Section of the government. With us at counsel  
7         table is Special Agent Ryan Carey of the Federal Bureau of  
8         Investigation.

9           THE COURT: Good morning.

10          And is the defense ready?

11          MR. KIM: Yes, your Honor. Good morning.

12          Edward Kim, from Krieger Kim & Lewin, on behalf of  
13         Dr. Ho, and I'm joined by Jonathan Bolz and Jon Bodansky.

14          MR. ROSENBERG: Good morning, your Honor. Benjamin  
15         Rosenberg, of Dechert, on behalf of Dr. Ho. I am joined by  
16         Catherine Wyman.

17          THE COURT: Good morning.

18          Mr. Kim, have you and your client had adequate time to  
19         review the presentence report?

20          MR. KIM: We have, your Honor.

21          THE COURT: Is there any reason it should not be made  
22         part of the record?

23          MR. KIM: No, your Honor.

24          THE COURT: All right. With respect to the offense  
25         level computation, I know that the defense has certain

J3pdhos

Sentence

1 objections, but everyone in this case believes that a various  
2 should be granted, so far as I can tell, indeed, a large  
3 variance, taking the sentence from the guidelines' range of  
4 triple digits down to double digits. So, given that, it seems  
5 to me that it is unnecessary for the Court to rule upon the  
6 objection, which would make a very small change in the  
7 applicable guidelines' rage.

8 Is there any disagreement with that, Mr. Kim?

9 MR. KIM: No, your Honor.

10 THE COURT: Very well. Then the Court finds it  
11 unnecessary to resolve the defendant's objection, United States  
12 v. Crosby, 397 F.3d 103, 112 (2d Cir. 2005).

13 With respect to the offense level computation, then, I  
14 accept the findings of the presentence report set forth at  
15 paragraphs 36 through 49, which conclude that a total offense  
16 level of 39 is appropriate.

17 With respect to the defendant's criminal history, I  
18 accept the findings of the presentence report set forth at  
19 paragraphs 50 through 55, which conclude that a Criminal  
20 History Category of I is appropriate.

21 I have the defendant's sentencing memorandum, dated  
22 March 11, the zillions of letters submitted on behalf of  
23 Dr. Ho. I have the government's sentencing memorandum, which  
24 is dated March 18th.

25 Are there any additional written materials I should be

J3pdhos

Sentence

1 looking at?

2 MR. KIM: Not from the defense, your Honor.

3 MR. RICHENTHAL: None that I am aware of, your Honor.

4 THE COURT: Very well, then.

5 Mr. Kim, do you want to speak on behalf of Dr. Ho?

6 MR. KIM: Very much so, your Honor, and I would like  
7 to address the Court from the podium.

8 THE COURT: Yes, sir.

9 MR. KIM: Your Honor, thank you for the care and  
10 thought that you've already put into this sentencing. I know  
11 that you've read very carefully our memo and the letters that  
12 we've submitted. And I know judges often say that sentencing  
13 defendants is among the most difficult responsibilities they  
14 have, but I have realized that it is not an easy task for us at  
15 this table either, because we're faced with responsibility of  
16 somehow conveying to your Honor the essence of this man,  
17 Dr. Patrick Ho.

18 Section 3553(a) requires the Court to take account of  
19 a defendant's character in imposing sentence, to judge the man  
20 as a whole. And that means considering the entirety of his  
21 life, his life beyond just the conduct that was the focus of  
22 the trial. I'm going to speak more about Dr. Ho's character,  
23 but before I do that I wanted to just address a couple of  
24 points right off the bat.

25 The government highlights I think what it says are

J3pdhos

Sentence

1 financial discrepancies in financial disclosures that were made  
2 to Probation. There has been a suggestion that there was  
3 millions of dollars worth of assets that were omitted. That is  
4 not accurate. The discrepancy between what was reported to the  
5 Probation Office and what was reported to Pretrial Services is  
6 attributable to the value of an apartment held in Dr. Ho's  
7 wife's name. We actually did submit that in our disclosure  
8 form to Probation and it was inadvertently omitted by the  
9 probation officer, who I believe would confirm that with your  
10 Honor.

11 Now, Dr. Ho has given us complete access to his  
12 accountant, who at this point has a better sense of Dr. Ho's  
13 finances than he does, given the fact that most of his accounts  
14 have been frozen or closed, and if there is any lack of clarity  
15 about finances, it is our fault, not Dr. Ho's.

16 The second thing I want to say, your Honor, is that  
17 Dr. Ho wholeheartedly accepts responsibility for his actions.  
18 He has not yet had an opportunity to express that to the Court,  
19 but he is remorseful, and you will hear that from him today.  
20 Of course, like any other person would, he has felt a range of  
21 emotions about this prosecution, but his remorse is genuine.

22 Now, I'm not going to touch upon everything we  
23 highlighted in our sentencing memo. I think the Court  
24 understands our perspective about the guidelines. But I would  
25 like to spend some time talking about Dr. Ho's character, which

J3pdhos

Sentence

1 shows why a sentence of time served is the right and the just  
2 result here.

3 Now, I know I cannot possibly communicate everything  
4 about Dr. Ho's character to you, but I would like to try to  
5 give you a sense for who Dr. Ho is as a whole. One thing is  
6 clear, prior to his service -- or prior to his arrest in this  
7 case, Dr. Ho's story was exceptional. After a modest  
8 upbringing, he left his home at a young age and came to America  
9 and discovered real success. And he faced a decision at that  
10 point. He could have stayed in this country and been  
11 prosperous, like many others leaving Hong Kong during that  
12 time, but he returned home with a sense of mission -- to help  
13 improve standards of medical care.

14 As Dr. Ho's successor at the Chinese University of  
15 Hong Kong wrote, "Dr. Ho single-handedly established academic  
16 ophthalmology in Hong Kong. He brought the practice of  
17 ophthalmology in Hong Kong and Mainland China into the modern  
18 era, and he did so with a selfless commitment to the greater  
19 good."

20 Now, many of the letters detail his efforts to improve  
21 the lives of those around him. He trained future generations  
22 of doctors, many of whom came from Mainland China to study  
23 under Dr. Ho through a fellowship that he personally funded.  
24 He brought cutting-edge medical techniques to Hong Kong and  
25 China. He led sight-saving missions in China.

J3pdhos

Sentence

1           Then he eventually decided to leave his lucrative  
2 medical practice and serve in government, and he made  
3 extraordinary contributions to Hong Kong through public  
4 service. He served on the preparatory committee helping to  
5 transition Hong Kong from British to Chinese rule. As  
6 Secretary for Home Affairs, he helped manage Hong Kong's  
7 response to SARS and he promoted religious tolerance and  
8 diversity.

9           And as to Dr. Ho's work with the NGO, it was obviously  
10 a part of his responsibilities to advance the interests of the  
11 energy company, and he did that. That, of course, is what  
12 brought him before you, and you're familiar with that part of  
13 his story. But even considering that the conduct at issue here  
14 was spread out over time, when looked at in the context of  
15 Dr. Ho's full life, that short pattern of behavior at issue is  
16 unrepresentative of the whole.

17           And so it's important to consider a full picture of  
18 what he did at the NGO. He worked tirelessly to promote energy  
19 development, to strengthen ties between China and other  
20 countries. It is also important to consider why he did those  
21 things. He saw it as another chapter, consistent with his work  
22 beforehand. And to put it simply, over the course of his life,  
23 Dr. Ho has thrown himself into service through his medical  
24 career, his work with the government, his work with charitable  
25 organizations, his work at the NGO, and in the process he has

J3pdhos

Sentence

1 improved the lives literally of thousands or tens of thousands  
2 of people.

3 I want to pause and emphasize one other thing, your  
4 Honor. Sometimes people of prominence, they limit themselves  
5 to grand public gestures towards service, but that is not  
6 Dr. Ho's story. His life has also been filled with small,  
7 private acts of kindness: Giving his possessions to make sure  
8 that a young girl at his clinic in rural China could get  
9 medical treatment; anonymously giving money to the elderly man  
10 who himself spent everything caring for his sick wife;  
11 providing free treatment to poor patients who came to his  
12 private medical practice; to the elderly woman whose money Dr.  
13 Ho would not accept because he knew she couldn't afford to pay;  
14 to the blind monk whose sight he literally restored. Now,  
15 there should be no doubt were it not for this trial, these acts  
16 never would have been made public. They are not acts that were  
17 done for reward anywhere on this earth, and certainly not for  
18 reward here at a criminal sentencing in Manhattan.

19 The letters we submitted also tell the story of  
20 Dr. Ho's kindness to people, both prominent and not. His  
21 driver of many years talks about Dr. Ho never acting superior,  
22 giving unconditionally. His fellow inmates at the MCC,  
23 including Christian Perez, writes about how whether they be  
24 Spanish, black, white, even gang members, Dr. Ho treats  
25 everyone the same. The most helpful person you could ever

J3pdhos

Sentence

1 meet.

2           Adam Raishani writes that he has changed hearts and  
3 minds for the better at the MCC.

4           This is a man who is, and always has been, compelled  
5 to serve by an internal sense of duty.

6           And based on everything Dr. Ho did in his life before  
7 this case -- and I think any objective person would agree, he  
8 has lived an exceptional life, but his story obviously  
9 continues. He was arrested in November of 2017, and that  
10 really spelled the end of his life as he had known it until  
11 then. His reputation was destroyed. He was jailed in a  
12 foreign country, separated from family members, none of whom he  
13 has been able to see since his arrest. And I should add, if  
14 that doesn't serve the purposes of general deterrence, I don't  
15 know what does. No matter what sentence the Court imposes,  
16 Dr. Ho has already and will continue to suffer the consequences  
17 of his actions for the rest of his life.

18           Now, this is an unusual white-collar criminal case for  
19 many reasons, but for starters, it's unusual for someone of  
20 Dr. Ho's prominence to have been detained before trial. It's  
21 the rare case where the Court gets to see what happens when a  
22 white-collar defendant is incarcerated and how he responds.  
23 And that sets this case apart -- how Dr. Ho responded, how he  
24 reacted to this adversity. And that shines a light on his true  
25 character.

J3pdhos

Sentence

1           What did he do when he found himself sitting in a jail  
2 cell? At that moment, Dr. Ho could have retreated into a  
3 shell, he could have given himself over to despair, and no one  
4 would have begrimed him that. That is not what he did.  
5 Instead, he worked to improve the MCC community. He gave  
6 lectures to the staff and inmates about globalization in  
7 business. He played the violin at graduation and Christmas  
8 celebrations. He spent countless hours on suicide watch  
9 looking out for other inmates who have given over to despair.

10           He tutored. Five inmates have received or will soon  
11 receive their GEDs thanks in large part to Dr. Ho's mentoring.  
12 But he has also given in quieter ways, ways that cannot be  
13 anything other than genuine reflections of kindness. Now, of  
14 course your Honor has sentenced defendants before who have  
15 tried to perform good works right before sentencing in order to  
16 gain leniency, but the sincere letters written by Dr. Ho's  
17 fellow inmates tell a very different story. This is genuine  
18 kindness and decency. No one else was watching when Dr. Ho  
19 reached down into the toilet, plucked another inmate's glasses  
20 out and washed them without so much as a word so as not to  
21 embarrass him.

22           No one else was watching when Dr. Ho quietly counseled  
23 other inmates on how to endure their time in jail; when he  
24 encouraged them to see the best parts of themselves; when he  
25 told Jonathan Weeks that he saw something different in him,

J3pdhos

Sentence

1 that he saw that Jonathan was bright and had a wonderful heart.

2 I reread many of the letters this weekend, your Honor,  
3 and there are common themes spread across Dr. Ho's life. He is  
4 repeatedly described as gentle, kind, thoughtful,  
5 compassionate, generous, humble. It's moving to hear about how  
6 he counsels his fellow inmates on how to face adversity. One  
7 inmate, Irfan Amanat, wrote about how Dr. Ho didn't even ask  
8 him to write this letter, that he was asked by another inmate;  
9 how Dr. Ho never asked for anything in return for his help but  
10 instead encouraged a return gesture be given to others, and in  
11 small but telling ways demonstrated his humility. How Dr. Ho  
12 insisted on playing the violin as an accompaniment rather than  
13 as lead, despite his obvious musical talent. How he united  
14 guitarists, a pianist, a vocalist from different backgrounds,  
15 and led other inmates to tears. One inmate wrote that he has  
16 done nothing but to spread goodness and peace and calmness in  
17 the MCC.

18 And some of the most powerful words I read came from  
19 Jonathan Weeks, who I know your Honor knows. And he wrote, "I  
20 wish I had a father like Dr. Ho."

21 These are the byproducts of genuine character and  
22 kindness. And I should add this. No one told Dr. Ho to do  
23 these things. I wish we could claim some credit for advising  
24 him to do what he did. We did not. And, in fact, we learned  
25 about many of them for the first time while preparing for this

J3pdhos

Sentence

1 sentencing. It is consistent with how he has lived his life  
2 and constantly looking for ways to benefit those around him,  
3 and it's consistent with how he will live his life after he is  
4 released.

5 Now, the many letters of support that people have sent  
6 illustrate all of this better than we ever could. Your Honor  
7 has seen many more sentencings than I have, but I think it's  
8 safe to say that the kinds of letters that were submitted here  
9 were exceptional. And I'm not just talking about the sheer  
10 volume. I'm talking about the breadth of those letters, people  
11 from every chapter of Dr. Ho's life -- his family, friends,  
12 students, medical colleagues, patients, people from his time in  
13 public service, others from his time at the NGO, and, of  
14 course, letters from his fellow inmates at the MCC. The  
15 content of those letters is remarkable. There is consistency  
16 there. They speak of a man who has devoted himself to helping  
17 others, who has carried himself with humility.

18 Judge, I spent a decade working as a prosecutor. I  
19 spent literally hundreds of hours in my life with people  
20 charged with federal crimes. I have met plenty of defendants  
21 who I have respected and liked, and that is not new to me. But  
22 I have no reservation in telling you that Dr. Ho's character  
23 truly is exceptional. That is why I am proud to stand up for  
24 Patrick Ho.

25 And I know I speak for everyone at this table when I

J3pdhos

Sentence

1 say that Patrick is a kind man. He is fundamentally good and  
2 decent and honest. I can attest to how kind and thoughtful he  
3 has been to us. Even during the darkest and most stressful  
4 times for him, he has been solicitous of the most junior  
5 members of our team, concerned about how they are feeling  
6 during trial. Unfailingly gracious and grateful to us. Even  
7 after the jury's verdict was announced, he went out of his way  
8 to thank each and every member of the team.

9           We spent countless hours together at the MCC sometimes  
10 just sitting quietly, sometimes talking about this case,  
11 politics, life, and the man I've come to know over the last  
12 year and a half is a man who has devoted himself, devoted his  
13 life to bettering the lives of people around him, a man who has  
14 really done an extraordinary amount of good in this world based  
15 on his sheer kindness.

16           I recognize that we're asking your Honor for a shorter  
17 sentence than the one recommended by Probation, and maybe this  
18 is an extraordinary request, but we submit that Patrick is as  
19 well. He is an extraordinary man of exceptional character. He  
20 has been punished enough.

21           Your Honor, we ask that you give him a just  
22 sentence -- a sentence of time served.

23           Thank you.

24           THE COURT: Thank you.

25           Dr. Ho, would you like to speak on your own behalf?

J3pdhos

Sentence

1           THE DEFENDANT: Yes. Thank you.

2           THE COURT: Yes, sir.

3           THE DEFENDANT: Your Honor, good morning.

4           THE COURT: Good morning, sir.

5           THE DEFENDANT: I'm humbled to be here.

6           This is the last place in the world I would have  
7           expected to be if you asked me 16 months ago. I'm 69 years  
8           old, born and raised in Hong Kong, China, and all my life I  
9           have lived to abridge differences and help people.

10          I have been deeply moved by the numerous letters that  
11         have been submitted to you, to the Court, written on my behalf  
12         by people that I have known and have touched me at various  
13         parts of my life -- from my youth, from my musical and medical  
14         training, my medical teaching and clinical practice, my  
15         government service in Hong Kong, and my work at the China  
16         Energy Fund Committee think tank, and also from my time here at  
17         the Metropolitan Correctional Centers, the "MCC." I have been  
18         deeply moved by the letters, and I hope that these letters give  
19         you a fair sense of my life work and my life, because these  
20         letters speak more thoroughly and deeply than I can here and  
21         now. And I'm extremely grateful to the people who wrote them.  
22         I'm also grateful because reading these letters reminded me of  
23         the path that I had taken over these many years, that I have  
24         been blessed to live through so many different chapters, each  
25         one more surprising than the last.

J3pdhos

Sentence

1                 The latest chapter is yet to be the most difficult  
2 one. There have been times when I felt that my life is over;  
3 the world around me has collapsed; my reputation, my career and  
4 my life's work destroyed; the foundations of my professional,  
5 social and personal life have all been shaken and uprooted.

6                 I feel great remorse that my actions and my situation  
7 have caused so heavy a burden on my family and have caused so  
8 much grief to the people around me and closest to me -- my  
9 wife, my daughter, my mother, as well as colleagues and friends  
10 around the world. They have suffered as surely as I have, and  
11 I want to apologize to each and every one of them. The actions  
12 that have caused this suffering and has brought me to this  
13 courtroom today were mine and mine alone. I accept full  
14 responsibility for them, and I'm deeply sorry.

15                 In particular, I have been half the world away, and  
16 not able to comfort my family gives me great pain.

17                 Sorry. It's very cold in here. I have a runny nose.  
18 Excuse me.

19                 THE COURT: Take your time.

20                 (Pause)

21                 THE DEFENDANT: That I was not able to comfort my  
22 family gives me great pain. My wife had just lost her mother  
23 several months ago, and I was not there to hold her hand and to  
24 share her sorrow. I myself lost my father exactly two years  
25 ago, in March of 2017. And my mother has lost her mate of 68

J3pdhos

Sentence

1 years. My mother, who is now 92 years old, has been living  
2 alone. And I pray every day that my mother should live a very,  
3 very long life so that she can see her son coming back to her  
4 side to beg for forgiveness and take care of her the remaining  
5 days of her life's journey.

6 Being incarcerated in a foreign jail for over 16  
7 months has really tested my inner strength and faith. I tried  
8 very hard to transform despair into something meaningful, to  
9 make something positive about this adversity and predicament.

10 At the MCC, I had come into close contact with people  
11 that I did not know and would not have met otherwise, and this  
12 experience had opened my eyes, my mind, and my heart to a lot  
13 of things. At MCC, I lived among the inmates, interacting with  
14 them very closely every day, and through the suicide watch  
15 program I provided companionship to many of them who were in  
16 the most desperate and vulnerable moments in their lives. And  
17 in the education department, I worked closely with many of them  
18 to prepare them for examination leading to the High School  
19 Equivalency Diploma, the "GED," by giving classes about  
20 geography and world relations, telling them stories of faraway  
21 places, people, and culture. And I also held discussions with  
22 them on the various aspects and options at the end -- they  
23 could consider at the end of their incarceration, including  
24 discussions on various skill sets that could become useful to  
25 them upon reentry to society, such as how to write a résumé,

J3pdhos

Sentence

1 how to prepare for a job interview and speak publicly, how to  
2 handle one's financial affairs, and about time management,  
3 anger management, and about opportunities in working in a  
4 health-related environment.

5 Our communications originated from mutual sympathy and  
6 commiseration, but later on developed into something that was  
7 based on the innate ability to understand and appreciate one  
8 another as human beings, what we felt and saw between us, which  
9 is simple human kindness and human decency we were able to  
10 rekindle in ourselves and in one another. Together, we found  
11 peace, inner peace. We found strength. We found hope and  
12 promise for the future.

13 Over the course of the last 16 months, I've learned so  
14 much from them, and through them, about the world, about life,  
15 about human nature, especially about myself, my own  
16 temperament, my pride, my frailties, and shortcomings. It has  
17 been such a daunting and yet surprising and enlightening  
18 experience for me that I'm certain that no matter where I go,  
19 no matter what I do, I will be sharing myself and my life  
20 experience with those around me and in my community.

21 Your Honor, at this time, my heart is filled with  
22 gratitude. I'm thankful to the Almighty for not forsaking me,  
23 for guiding me and leading me through this very difficult and  
24 profound experience of a lifetime. I'm also very thankful to  
25 my family and also thankful to faithful friends for binding

J3pdhos

Sentence

1 with me, for their steadfastness, and supporting me with  
2 encouragement. I'm looking forward every day to my coming back  
3 home to them.

4 I'm thankful to the Court and to members of the jury  
5 for your time, your effort and consideration. I respect your  
6 judgment and decisions.

7 And I'm thankful to the officers and inmates at MCC  
8 for keeping me safe, for keeping me educated, and company, and  
9 especially the MCC education department for squeezing from  
10 their already tight budget a small provision to procure a few  
11 musical instruments, including a violin. The violin has  
12 brought music back to my life and to the life of many at the  
13 MCC.

14 Lastly, I would like to thank the American people for  
15 taking care of me for the last 16 months. So, to all of you, a  
16 very sincere gratitude from the bottom of my heart, and I thank  
17 you all very, very much indeed.

18 Also, my mother, who will be 93 years old this summer,  
19 has always reminded me that to convey gratitude in the most  
20 sincere way, a Chinese gentleman should take a bow. Your  
21 Honor, please accept this token of my respect, my gratitude,  
22 and my appreciation.

23 (Defendant bowed)

24 THE COURT: Yes, sir. Thank you.

25 Does the government wish to be heard?

J3pdhos

Sentence

1 MR. RICHENTHAL: Briefly, your Honor.

2 We don't quarrel with much of what Mr. Kim said, or  
3 even, for that matter, much of what Dr. Ho said. But we're  
4 here because of what he did for years. And what the defense is  
5 asking this Court to do is impose a sentence of less than the  
6 time he engaged in multiple bribery offenses.

7 If the life that's been conveyed in the papers before  
8 this Court and in the remarks this morning and this afternoon  
9 before the Court was accurate, and the defendant quickly and  
10 without much thought hit a button, sent a wire, maybe even gave  
11 a little cash to someone, what they're asking for might be  
12 appropriate, but that's not what happened. What happened is  
13 for years, across continents, across meetings, the defendant  
14 chose to cheat, repeatedly, and abuse a charitable organization  
15 to do it -- over and again. And when one failed, he just  
16 turned to another. It is right and appropriate for the Court  
17 to consider all the good works he has done, absolutely. The  
18 Court also has to consider why he's here. That's why he's  
19 here.

20 And the Court should give great pause before accepting  
21 that that's aberrant not just because it lasted for years, not  
22 just because he supervised people, although those factors are  
23 important, but because if the Court has learned anything in  
24 this trial, that is, the trial that brought us here, the Court  
25 has learned there was a private Dr. Ho and a public Dr. Ho.

J3pdhos

Sentence

1 And in public he did do the things that people write about, but  
2 in private he referred to grenade launchers as "toys." He had  
3 no problem evading sanctions with respect to countries to make  
4 money. He had no problem stuffing cash into boxes, flying them  
5 on a corporate jet to a poor country, and giving that cash to  
6 the president of that country. Not once in the numerous  
7 communications before this Court, while the defendant did these  
8 things, did he even show a scintilla of pause. On the  
9 contrary, he did it enthusiastically, just like he sold weapons  
10 enthusiastically.

11 Did he do the good things that the Court should  
12 consider? Yes. Did he do those things, too? Yes. And those  
13 things violated the trust of the people who worked for that  
14 think tank. They violated the trust of the people, those poor  
15 countries he flew to, to bribe their leaders. They violated  
16 the trust of the United Nations. That is serious. That's a  
17 piece of why we're here.

18 The sentence has to account for the full story, the  
19 good and the bad. The sentence needs to be substantial.

20 THE COURT: Thank you.

21 Anything else, Mr. Kim?

22 MR. KIM: No, your Honor.

23 THE COURT: Thank you, counsel.

24 Ladies and gentlemen, as you've heard, I have  
25 calculated the guidelines and certainly have taken them into

J3pdhos

Sentence

1 account.

2 In my view, the description of the crimes of  
3 conviction is accurate as set out in the presentence report.

4 I start with the seriousness of that offense, and I  
5 quote from the UN General Assembly Convention against  
6 Corruption, which the government pointed out in its brief. It  
7 said:

8 "Corruption is an insidious plague that has a wide  
9 range of corrosive effects on societies. It undermines  
10 democracy and the rule of law, leads to violations of human  
11 rights, distorts markets, erodes the quality of life, and  
12 allows organized crime, terrorism, and other threats to human  
13 security to flourish. This evil phenomenon is found in all  
14 countries – big and small, rich and poor – but it is in the  
15 developing world that its effects are most destructive.

16 Corruption hurts the poor disproportionately by diverting funds  
17 intended for development, undermining a government's ability to  
18 provide basic services, feeding inequality and injustice, and  
19 discouraging foreign aid and investment.

20 "Corruption is a key element in economic  
21 underperformance and a major obstacle to poverty alleviation  
22 and development."

23 So there is no question that the crimes at issue here  
24 are serious crimes.

25 That said, however, where these sentences driven by

J3pdhos

Sentence

1 the fraud guidelines, particularly at higher numbers, the  
2 sentences suggested by the guidelines dramatically overstate  
3 the seriousness of the offense and the appropriate guideline  
4 range. Indeed, we hardly give sentences such as the  
5 recommended 262 to 327 months to murderers. So, I agree with  
6 the judges who have been quoted in a variety of cases by the  
7 defense that the broad guidelines dramatically overstate the  
8 seriousness of the offense.

9                 With respect to the history and characteristics of  
10 this defendant: As we've heard today, Dr. Ho came from a  
11 modest background and through his own work and talent became a  
12 very accomplished individual.

13                 I note the government talks about some charity being  
14 part of such an accomplished individual's life, some charity is  
15 expected of a person of Dr. Ho's stature. However, I do note,  
16 particularly from the letters that have been submitted, he's  
17 gone above and beyond. We talk about the grand public gestures  
18 such as endowing an ophthalmic scholarship. There is plenty of  
19 that. But it is the random acts of kindness to so many that in  
20 my view point to something extraordinary in Dr. Ho's character.

21                 We've heard about people who he literally has returned  
22 to sight. We've heard about donations of money made privately  
23 and anonymously, and I personally have looked at the work that  
24 Dr. Ho has done at the MCC. As counsel alluded, I sentenced  
25 Jonathan Weeks, who was turned around by Dr. Ho. Mr. Weeks

J3pdhos

Sentence

1 grew up without parents, essentially, in various foster homes.  
2 So I take all of that into account, and it is indeed  
3 extraordinary.

4 With respect to the crime at issue, the government has  
5 pointed out correctly that it did go on over some years. I do  
6 note, however, that in a life of close to 70 years, this was a  
7 small part, but, nevertheless, as I've noted, it is serious  
8 conduct that harms people around the world.

9 With respect to the paragraph 2 factors: Certainly a  
10 period of incarceration is necessary here to reflect the  
11 seriousness of the offense. As I've noted, however, the  
12 guidelines called for are beyond all imagination, and,  
13 accordingly, everyone agrees, including the government, that a  
14 variance is required here. Of course, there is in my view no  
15 need to protect the public from further crimes of this  
16 defendant, as the probation officer points out in the  
17 presentence report.

18 With respect to public deterrence, the government is  
19 correct that that's a very important factor in these kinds of  
20 cases, but the sentence called for in the guidelines is not a  
21 sentence that is required. For a person of Dr. Ho's stature  
22 and of people who have been sentenced in these kinds of crimes,  
23 going to prison for more than a couple of months is indeed  
24 public deterrence.

25 The paragraph D factors of providing educational or

J3pdhos

Sentence

1 vocational care, of course, are not relevant here. Indeed, as  
2 we've all discussed, the opposite has happened, and Dr. Ho has  
3 provided vocational, educational and life experience education  
4 to folks at the MCC.

5 I have in mind the paragraph 3, 4 and 5 factors.

6 With respect to paragraph 6, the need to avoid  
7 unwarranted sentencing disparities: I've noted the sentences  
8 that the government has pointed out in its brief of folks  
9 relatively similarly situated, and in my view there will not be  
10 a perceived disparity.

11 Taking all of these factors into account, counsel,  
12 it's my intention to impose a period of 36 months  
13 incarceration.

14 I would like to hear from counsel, please, with  
15 respect to supervised release. As we know, the government has  
16 submitted an order of removal, and I think the expectation is  
17 that Dr. Ho will immediately return to Hong Kong.

18 I also would like to hear from counsel with respect to  
19 the fine. I note that the Probation Office recommends that the  
20 fine be paid within six months of the imposition of sentence.

21 May I hear from you on those topics, counsel, and  
22 specifically whether a period of supervised release should be  
23 imposed here?

24 MR. RICHENTHAL: I don't think a period of supervised  
25 release is necessary. Indeed, the guidelines generally counsel

J3pdhos

Sentence

1 against it in circumstances such as this. Assuming your Honor  
2 intends to enter the judicial order of removal, we expect that  
3 the defendant will be promptly removed from the United States.

4 With respect to a fine, I think our position is  
5 generally set forth in our papers. It is not the case that all  
6 of his assets were described to either Pretrial or to the  
7 Probation Office. He left out a Swiss bank account. He left  
8 out businesses. I could keep going with this. But the reality  
9 is this is a man of substantial wealth, much more substantial  
10 than the average defendant, even the average defendant who  
11 commits these types of crimes. And particularly because there  
12 is no restitution order warranted in this case, not because  
13 there aren't victims in a normal sense but simply because the  
14 law doesn't view corruption as a crime where victims actually  
15 get money, we think that a meaningful fine is absolutely  
16 appropriate, as the Probation Officer recommends.

17 THE COURT: My question also was the Probation  
18 Officer's recommendation that the fine be paid within six  
19 months of the date of imposition of sentence. That's not  
20 normally what we do, but that was the recommendation and  
21 perhaps for good reason.

22 MR. RICHENTHAL: So I haven't asked Officer Kim why  
23 that was his recommendation. My sense is it was because his  
24 view is that the defendant has liquid assets sufficient to  
25 satisfy the fine very quickly, and that absolutely seems the

J3pdhos

Sentence

1 case.

2 THE COURT: Mr. Kim, do you wish to comment?

3 MR. KIM: May I have one moment, your Honor?

4 THE COURT: Yes, sir.

5 (Pause)

6 MR. KIM: Thank you, your Honor.

7 We don't have any comment on the supervised release.

8 I think we agree that it makes sense for the Court to impose  
9 that here.

10 As to the fine, your Honor, we think that obviously a  
11 fine -- the Court needs to take into account every aspect of  
12 the sentence to determine what is an appropriate sentence. We  
13 think a minimal fine should be imposed here, your Honor.

14 Dr. Ho did not reap a windfall from this offense. We  
15 understand one is called for under the guidelines, but we think  
16 one at the bottom end of the range be opposed.

17 As to the timing of that fine, your Honor, while  
18 Dr. Ho's assets, some of them are liquid, his access to the  
19 banking system is a problem because many of his accounts have  
20 been frozen or closed. So, we ask that he be given additional  
21 time to pay the fine.

22 MR. RICHENTHAL: I just want to note one thing on  
23 timing.

24 THE COURT: Yes, sir.

25 MR. RICHENTHAL: Two things.

J3pdhos

Sentence

1                 First, it's absolutely false he has limited access to  
2 the banking system. He was apparently able to liquidate a  
3 multiple hundred-thousand-dollar Swiss bank account owned  
4 through a trust while incarcerated. There is no reason he  
5 couldn't continue to do the same to pay a fine.

6                 And, second, to the extent there isn't supervised  
7 release, it is appropriate that there be a time period for the  
8 payment of a fine at least meaningfully less than the time  
9 period of incarceration so if he chooses not to exercise  
10 discretion to pay the fine, we can go after assets within that  
11 time period.

12                 THE COURT: Anything else, Mr. Kim?

13                 MR. KIM: No, your Honor.

14                 THE COURT: All right, then.

15                 Counsel, it is my intention to impose the \$400,000  
16 fine recommended, to require that it be paid within 12 months  
17 of the imposition of sentence.

18                 And it is my intention to impose the \$700 mandatory  
19 special assessment.

20                 It is not my intention to impose a period of  
21 supervised release.

22                 Is there any legal reason, counsel, why such a  
23 sentence should not be imposed?

24                 MR. RICHENTHAL: I am not aware of any, your Honor.

25                 MR. KIM: No, your Honor.

J3pdhos

Sentence

1                   THE COURT: Very well, then.

2                   Dr. Ho, you are sentenced, sir, to a period of 36  
3 months' incarceration. Following that time, there will be no  
4 supervised release.

5                   The Court imposes upon you a fine of \$400,000, and  
6 that should be paid within 12 months of today's date.

7                   In addition, sir, I must impose, and do impose, the  
8 \$700 special assessment, and that should be paid promptly.

9                   It is my duty to inform you that unless you have  
10 waived it, you have the right to appeal the sentence, and you  
11 might have the right to appeal in forma pauperis, which means  
12 as a poor person, with the waiver of certain fees and expenses.

13                  Mr. Kim, I note that the probation officer recommended  
14 FCI Allenwood. Do you concur in that?

15                  MR. KIM: Your Honor, I think in the first instance we  
16 would request that the Court request that the BOP allow Dr. Ho  
17 to stay at the MCC potentially to assist with his appeal. We  
18 will submit a proposed order for the Court's consideration.  
19 And should the BOP not do that, I think we agree that LFCI  
20 Allenwood would make sense in order to facilitate Dr. Ho's  
21 removal from the United States.

22                  THE COURT: Very well. So, include both of those  
23 things in the proposed order.

24                  MR. KIM: We will do that, your Honor.

25                  THE COURT: Is there anything further?

J3pdhos

Sentence

1 MR. RICHENTHAL: No.

2 Let me just note, though, on those two things: First,  
3 I think it has to be a recommendation, not actually an order,  
4 to the BOP.

5 Second, the first request is extremely unusual and I  
6 don't think warranted. The BOP, as your Honor no doubt knows,  
7 has limited space at the MCC. In our judgment, it is not  
8 appropriate to permit a defendant to remain there indefinitely  
9 regardless of circumstances.

10 And, second, that particular recommendation -- I'm now  
11 referring to Allenwood -- was to effect removal if the  
12 defendant is contesting it, which he is not. He may still  
13 prefer Allenwood and that's fine, but that is not a basis to  
14 make that recommendation.

15 MR. KIM: Your Honor, I think our hope is that the  
16 judicial removal order will facilitate his speedy release. We  
17 are also hoping that if there is any way to expedite that by  
18 being at LFCI Allenwood, that that would happen. If that is  
19 not going to have any effect, then that is fine. We want him  
20 to stay as close to New York City as possible. Our hope was  
21 that if there is any degree of speed which we can gain by being  
22 at LFCI Allenwood, we would like that to happen.

23 THE COURT: Yes, sir.

24 All right. I will take a look at the order.

25 Anything else, gentlemen?

J3pdhos

Sentence

1 MR. RICHENTHAL: No, your Honor.

2 MR. KIM: No, your Honor. Thank you.

3 THE COURT: Dr. Ho, people have talked about your age  
4 of almost 70 as being old. Take it from me, it's not.

5 You have a lot to offer. You've obviously been doing  
6 it while you were at the MCC. You have a lot yet to do in your  
7 life.

8 Good luck to you, sir.

9 THE DEFENDANT: Thank you, your Honor.

10 THE COURT: Yes, sir.

11 Counsel, thank you for your assistance.

12 (Adjourned)

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